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«Quiet thieves, quiet punishment»: private responses to the «respectable» offender, c.1850-1930

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Introduction

1 Historians and criminologists have frequently commented upon the considerable under-reporting of offences such as embezzlement and fraudulence, and the subsequent darkness that surrounds academic knowledge of this subject. Descriptions of the statistical picture of workplace crime as only «the tip of the iceberg» are commonplace within academic scholarship, with most incidents remaining hidden in the records and correspondence of individual companies. Indeed, existing research has widely recognised the preference of employers to deal privately with most workplace offenders through internal mechanisms of justice, and an apparent reluctance to pursue the majority of cases through official channels[2]: «One of the first sure conclusions reached after a study of embezzlements is that the larger number of them are never made public»[3]. However, despite general agreement about the considerable usefulness of the private arena in supplementing knowledge of various workplace offending behaviours, scholars have yet to utilise fully the private records of the business arena or unlock their potential to elucidate the nature and extent of «respectable», «white-collar» offending, and the attitudes of employers to this behaviour. Scholarly understandings of this subject consequently remain firmly tied to the public arena and the limited public face of such crime. As a result, the offences of the business world, including embezzlement, have remained something of an enigma, presenting at best a skewed picture of such delinquency[4]. Any successful attempt to map the disciplinary apparatus utilised within

the private arena against embezzlement and other acts of fraudulence must fully engage the concealed world of industry.

2 This article probes the records of one key Victorian industry, the railways[5], and one of the most prolific offences associated with the business arena, embezzlement, to expand scholarly knowledge of the dynamics of public and private justice amongst «respectable», white-collar offenders. In so doing, it questions existing academic «knowledge» of the motivations underpinning private mechanisms of justice in such cases, emphasising the inseparable relationship between the punitive worlds of the public and private.

Interpreting prosecutorial trends: existing frameworks

3 To date scholars have suggested a number of explanations for the overwhelmingly private nature of justice in cases of suspected embezzlement and otherwise financial dishonesty[6]. In detailing the specific offence of embezzlement within the modern business environment, socio-legal scholar, Jerome Hall, has presented a number of general claims in order to explain the largely hidden nature of the offence[7]. First, Hall argued that popular discourses and stereotypes of the criminal, and particularly «the thief», dissuaded employees from punishing embezzlers. The embezzler's typically «respectable» appearance and social position placed this offender at a distance from more orthodox images of the thief – such as the robber, burglar, or pickpocket. Public condemnation, and therefore the most punitive responses to the thief, thus focussed mainly upon the «traditional» offender, while the embezzler was largely sidelined in such debates. The embezzler's «respectable» persona, Hall suggested, made him more difficult to portray as a «real» criminal threat, and the existence of such attitudes amongst employers can explain the basis for the persistence of greater levels of sympathy towards the embezzling employee, and subsequently more leniency in punishment through private and informal methods. Second, Hall has suggested that the paternalistic instincts of employers towards trusted staff, alongside an ability to identify with the «respectable» embezzler at a social level and to sympathise with the motives underlying their offending behaviour, may have further encouraged the use of private rather than public justice. Third, Hall noted that a number of pragmatic considerations, particularly relating to the cost and inconvenience of prosecution, together with the adverse publicity and damage potentially caused by public acknowledgement of vulnerability to embezzlement by trusted staff, encouraged low levels of public prosecution[8]. Fourth, and of central importance to the prosecution decision, was the question of financial restitution. Hall argued that in cases where companies informally recouped losses through this means, the utility of a prosecution was possibly reduced. Central to the decision of whether or not to prosecute was the individual's ability to repay monies fraudulently taken, and so the final action was affected by the financial significance or harm of the embezzlement itself, which therefore played a further role in the prosecutorial decision[9].

4 Underlying these claims are a number of assumptions about the widespread existence and persistence of private justice in the case of the embezzler. In particular, Hall assumes that the embezzler was viewed differently, indeed more sympathetically, than other varieties of criminal; that the utilisation of private rather than public methods of punishment was a decision largely (if not entirely) in the hands of company management and senior officials; that such patterns represented a preference on their part for private justice, based upon a more compassionate attitude towards this type of offender and a

desire for greater leniency; and that internal mechanisms of punishment were chosen because they were less punitive and more moderate. However, while claims about the overwhelmingly private nature of justice in cases of embezzlement remain accurate and demonstrable across historical time and commercial enterprise, a detailed examination of the private records of the Victorian and Edwardian railway industry strongly suggests that the factors which underpinned the decision to punish privately rather than publicly in most cases, are markedly different from those offered by Hall.

The spatial dynamics of company justice: a case study of the railway industry

5 By the nineteenth century the existence of a modern legal offence of embezzlement bolstered the public face of the crime, making prosecution a viable sanction against all such offenders. After 1799 all «clerks» and «servants» could be held legally culpable for the appropriation of money received and handled by them on behalf of an employer, providing unprecedented statutory support for railway (and other) companies in dealing with such offenders[10]. Thus, throughout the nineteenth century (and beyond) the public prosecutorial trend was one of upward movement, as employers brought increasing numbers of embezzling staff before the courts[11]. Furthermore, the unprecedented size of the railway industry and numbers of trusted servants employed within it[12] made breach of trust offences a particularly significant problem within this arena, and the prosecution of a proportion of such staff meant that the industry was often well represented within the public picture of embezzlement[13]. Indeed, the employment of public mechanisms of justice against those who breached trust was an integral aspect of the disciplinary apparatus for many railway companies. Directors regularly expressed a desire and commitment to fully utilise their legal powers to protect against the embezzler and fraudster, with prosecution considered to be the main avenue through which to punish embezzling staff whenever possible. For example, the official policy of companies such as the Great Western Railway (GWR) was to proceed criminally against all «provable» cases of fraudulence, embezzlement and other forms of dishonesty. The need for strict adherence to this policy was clearly observable in a memorandum from the company directors, who, in an attempt to set out «a uniform course of procedure for dealing with cases of this nature», resolved that «in all proved cases of defalcation, embezzlement and falsification of the company's books the offender will be prosecuted»[14]. While such claims were undoubtedly an attempt to deter those whose trusted position inevitably produced opportunities for criminality, they were more than empty threats. Thus, throughout the Victorian and Edwardian periods railway companies regularly prosecuted staff for embezzlement and demonstrated a consistent desire to do so in all cases where this appeared possible[15]. However, as the private records of the industry detail, only a small proportion of all financial «irregularity», embezzlement and fraudulence was officially prosecuted. Thus, despite threatening public prosecution against all embezzling and otherwise fraudulent staff, and despite significant numbers of prosecutions, only a slight proportion of all such cases were ever brought before the public courts. Instead directors disposed of large numbers of untrustworthy, suspicious or financially «irregular» staff, through internal, private modes of company justice[16].

6 An exploration of the private world of the railway industry, however, demonstrates that this picture cannot be adequately explained through recourse to existing theoretical

arguments. Indeed, rather than being conditioned by issues of leniency, paternalism or financial costs, as Hall suggested, the records of the Victorian and Edwardian railway industry strongly reveal that these variables were of little importance in encouraging a predominantly private system of justice. Instead, alternative factors (currently unrecognised within historical scholarship) played a major role in enforcing the necessity of private punishment. The most fundamental dynamic in this process derived from within the legal arena, centring upon statutory intricacies which problematised the issue of obtaining satisfactory legal proof of embezzlement to proceed criminally against the offence.

The importance of proof

7 A key deficiency in current interpretations of the extent of private punishment is in its exaggeration of the agency attributable to employers in directing the punitive outcomes of offending behaviour. Indeed, existing research has overemphasised the power of employers, and assumed that company officials held complete discretion over the decision of whether or not to pursue a prosecution. The general intimation of existing research has been that for a variety of reasons those in a position to prosecute actively *chose* not to, instead preferring private modes of justice[17]. In fact, as a consequence of the inadequacies of statutory provision in the area of embezzlement, when dealing with suspected embezzlers it was rarely the case that officials possessed the power to decide whether or not to pursue a public or private course of action. The legal offence of embezzlement was extremely difficult to establish, meaning successful prosecutions were hard to achieve. The main problem for private companies was the difficulty of ascertaining whether missing money had been fraudulently appropriated. Simply collecting money on behalf of the company and not immediately accounting for it did not necessarily imply the offence of embezzlement; in fact the handling of company money was an essential and legitimate part of the clerk or confidential servant's role. Embezzlement was only chargeable if it could be proved that, in not accounting for the money, a clerk or servant had fraudulently intended to deprive their employer of the amount. In legal terms, therefore, the success of a prosecution was heavily contingent on proving the *mens rea* of the crime[18]. Thus, in many cases of «irregularity» the distinction between an honest mistake and an embezzlement rested upon the intention of the clerk in keeping back money received on behalf of the company. This was often difficult or impossible to judge with any certainty (and to a far greater degree than in other varieties of theft)[19]. The facts pertaining to many cases did not present a clear picture of the motivations of clerks who were deficient in their cash, and in such an environment claims of mistake were easy to make, often leaving employers uncertain about the true facts of a case. In short, in cases where money had been retained by a clerk without any fraudulent intention to permanently deprive the employer of the amount, an honest mistake was all that had occurred; however, in cases where the failure to account for money was accompanied by an intention to deprive the employer, the act was one of embezzlement.

8 Within huge concerns such as the railway industry, where large numbers of clerks and other staff were trusted with receiving and handling company money, the task of deciphering the true nature of an act of financial «irregularity» was particularly problematic, since constant supervision was impossible and missing money was a regular feature of clerical work. Indeed, the industry's records demonstrate that clerks were

frequently short in their financial accounts and balances. For example, in 1850 Mr Greenstock, a clerk at Bath, was reported to the directors of the GWR for «being deficient in his accounts»[20], and in 1851 Mr Duncan, a clerk at Maidenhead, was similarly charged with «being deficient in his accounts»[21]. Elsewhere, on 10th June 1853 it was reported to the North Eastern Railway (NER) Traffic Committee that deficiencies had been discovered in the accounts of Mr Johnson, stationmaster at Knaresbro', and Mr Eastgate, stationmaster at Bolton Percy[22]. However, such acts did not immediately imply fraudulence. Honest errors were a familiar part of clerical work, and, as a result, cases of «irregularity» were regularly adjudged to be the consequence of non-criminal actions. Incompetence was not infrequent, even by those in senior positions, and often led to mistakes. The example of Mr Benson, a stationmaster at Stovingham, is illustrative. In 1853 a complaint was made against Benson for the way that he kept his books. In the inquiry which followed it was reported that «he was upward of sixty years of age, and had not been much accustomed to accounts», in consequence of which, he had made many mistakes. Furthermore, despite instruction in the correct method of keeping accounts by a clerk from the audit office, Benson remained unequal to the task. Thus, it was reported to the company directors, that «every endeavour had been made to instruct him on the duties of the station, but without avail, as he appeared to be quite incapable of understanding them»[23]. Such cases of ineptitude, however undesirable, were nevertheless not criminal[24], and numerous instances of clerks being disciplined for honest incompetence were recorded in the official documents of the railway industry. Typical was the case of two Yeovil goods clerks, Mr Fryer and Mr Wilkins, brought before the GWR board in 1857. In commenting on the work of the clerks in dealing with sums of money, Mr Wood, company accountant, «reported that both clerks were deficient in their cash to some extent and that the books had been kept in a very careless manner»[25]. The men were subsequently removed from the service of the company for negligence, but since their errors were not considered to be driven by fraudulence, prosecution was not considered.

9 Instances of clerks short-changing members of the public were also regularly explained and accepted as mistakes. For example, in 1852 Mr Battersley, a clerk at Slough, was accused by Mr Allfrey of having overcharged by 2s. in handling money for tickets. Battersley claimed that «owing to the number of passengers taking tickets by that train he has no recollection of the occurrence», but that he was innocent of any fraudulence. Mr Battersley's superiors described him as «in every way an excellent clerk ... incapable of overcharging a passenger wilfully», and as such «he was acquitted of any intentional fraud and the whole was entertained as occurring from mistake in the luxury of business»[26].

10 The frequency of honest financial «irregularities» appearing before the directors of railway companies is readily explicable. The role of clerk was often a complex and demanding one[27], and so: «early days in the job were frequently difficult unless one had a sympathetic mentor»[28]. Of course not all claims of mistake were considered to be legitimate; some were thought to be suspicious or even false, and used to cover up acts of fraudulence or embezzlement. Such was the case when Mr Allen, station clerk at Basingstoke, was called before the directors for having entered extra amounts on the pay cheques to those due to the men, and for having kept the additional money. While Allen claimed that «it was a mistake» rather than an act of embezzlement, the suspicions of the directors meant he was not believed[29]. However, even in cases where suspicions were

aroused, proving embezzlement sufficiently fully to enable a successful prosecution remained problematic. Allen, for instance, was only dismissed from the service of the company on suspicion of fraudulence since insufficient evidence existed to consider a prosecution against the clerk. The difficulties involved in proving an offence (even one arousing considerable suspicion) are lucidly demonstrated in the case of GWR pay clerk, Charles White, before the board of directors in the early 1890s.

The case of Charles White

11 On Saturday, 7th November 1891, Charles White departed for his annual holiday. On the following Monday it was discovered that he had failed to account for two sums of money: one of £40 entrusted to him for the payment of wages, and another of £12.3s.5d from his petty cash. Both of these amounts were later settled by White; however, the circumstances of the occurrence generated some suspicion of dishonesty against the clerk. On 11th November he was therefore suspended from duty pending an inquiry, and, on 24th November, resigned from the service of the company. Almost a year later, in September 1892, White wrote to the board of directors asking to be reinstated and revisiting the circumstances in which his employment had come to an end. The case clearly highlighted the problems of proving fraudulence in cases where financial «irregularities» were discovered, since the facts failed to prove satisfactorily whether White had been dishonest or had simply made a mistake. White claimed that the «irregularity» had been the result of an oversight on his part in not accounting for the money before leaving his post. In a letter to the directors he explained the circumstances of the case thus:

> On leaving for my holidays, Saturday 7th November, 1891, in the excitement of wishing the usual farewell to a few of my contemporaries I did foolishly forget to take an amount of £40 to Mr Lane in the Booking Office which I had placed in my pocket for that purpose, and I am very sorry to say did not discover it until the following Monday morning when I immediately went to that gentleman and handed him the money[30].

12 According to White, his honest mistake was evidenced by the fact that he «voluntarily went to Paddington with the money», rather than being called upon to do so. However, in White's version of events his explanation had been «discredited» by Mr Hugh Owen, superintendent of the GWR line, who looked upon the «irregularity» in a «very serious and harsh way», and who refused to advise the clerk on what steps to take in the matter saying, «I leave that to your own discretion». White claimed that when he enquired about «the clemency of the board» in deciding the outcome of his case, he was informed by Owen that he «should get no consideration for so grave an irregularity». Furthermore, he claimed that these circumstances brought considerable pressure upon him to resign, which he did in late November, after sixteen years faithful service with the company.

13 The account given by White's immediate superiors was, however, somewhat different. Mr George Boxall, stated that on Saturday, 7th November, before his departure White had been «asked if he had handed all his business over clean to his successor» to which he replied in the affirmative. Yet on the following Monday it was discovered that White had, in fact, failed to account for the two sums of money «which he had in hand on the previous Friday, and which should have been handed over on Friday afternoon». The larger amount of £40 was only paid at midday on Monday 9th November, and the smaller

amount of petty cash was not returned until three days later. In recounting this incident Boxall expressed unease about the suspicious nature of the «irregularity» claiming, «there was no reason whatever for Mr White to concern himself about the business after Saturday». Furthermore, the suspension of White was deemed to be in strict accordance with the rules of the company, and «upon no occasion was any pressure put upon him to induce him to resign». Instead, «his resignation was entirely voluntary after nearly a fortnights consideration», perhaps raising further questions about the clerk's honesty in the matter[31]. Thus, while some suspicion of White's behaviour existed on the part of his superiors, the precise nature of the case and the intention of White in keeping back the sums of company money nevertheless remained uncertain. White's failure to remit the money in his possession was not proof of fraudulence or embezzlement, and his readiness to hand some of the money over promptly before being called upon to do so may have supported his claim of oversight. However, the statements made by White's superiors concerning his failure to return the money entrusted him before leaving the office (despite being reminded to) at least cast a shadow of doubt over the clerk's intentions. In consequence, the company directors remained unsure about the motivation behind White's «irregularity». Therefore, while the suspicions they entertained were strong enough to denounce «the grave irregularities», committed by White and to order a thorough inquiry into the case, conversely his claim of mistake was credible enough to encourage Hugh Owen to recommend that the clerk should be given «a chance of redeeming his character in another department»[32], when the appeal for reinstatement was made.

14 In cases of this nature, where uncertainty existed about the underlying causes of a clerk's behaviour, the vague and all-encompassing label of «irregularity» was the only one that could be imposed. The precise legal terminology of «embezzlement» could not be charged as long as doubt about the fraudulent intentions of the clerk persisted, and in this ambiguous climate prosecution remained both inaccessible and unachievable in most cases. Indeed, as echoed in many further examples of «irregularity», despite being considered serious and suspicious, prosecution was never contemplated in the correspondence surrounding White's case. Furthermore, given the eagerness of directors to prosecute in cases of more resounding proof of dishonesty, the reason behind their decision was almost certainly their inability to ascertain the true nature of the «irregularity» or utilise legal measures to deal with it.

Prosecutorial caution

15 While the difficulties of acquiring sufficient proof of dishonesty to mount a prosecution kept many cases out of the criminal justice system, legal technicalities surrounding the offence meant that even where sufficient evidence existed to proceed to court prosecutions might still be undermined. In 1857, for instance, a prosecution against John Horsfield for embezzlement «had failed on a technicality»[33]. Where prosecutions failed, not only did companies have to bear the burden of further lost time and money, they potentially also had to deal with counter claims by the dismissed clerk or servant. This was the case in 1855 when Mr Found, a clerk at Shrewsbury goods station, was reported for being deficient in his cash to the extent of £78.6s.9d and was subsequently prosecuted for embezzlement[34]. In 1856, following an unsuccessful prosecution, Found's solicitors wrote to the directors requesting compensation for the financial losses suffered by the

clerk in consequence of «an unfounded charge of embezzlement having been made against him which was afterwards disproved»[35]. To avoid such problems as far as possible it was therefore important that prosecutions were undertaken only in cases where the likelihood of a conviction was high. Thus, in 1856 the directors of the NER advised that a number of porters at Hull, who had received and not accounted for passenger fares, should only «be prosecuted *if clear cases can be made out against them*»[36]. Also, in 1853 when Mr Pybus, stationmaster at Cramlington, was found to be deficient in his accounts to the amount of about £30, it was ordered that he be prosecuted only «if a case can be established against him»[37].

16 In judging the suitability of cases for prosecution directors were heavily reliant upon company solicitors in determining the advisability of proceeding to court, and records demonstrate that even in cases where directors strongly suspected dishonesty to the extent that they were happy to instigate a prosecution, company solicitors frequently advised against such a course due to the likelihood that the case would fail. In 1871, for instance, when two GWR booking clerks, Mr Crosse and Mr Rowlandson, were suspected of having systematically embezzled company money, the directors proposed that the clerks be proceeded against criminally. However, despite their suspicion and recommendation to pursue the case within the public arena, the board were advised by company solicitors, «that the evidence in these cases would not support an indictment for embezzlement»[38]. In fact, in this case the directors expressed considerable disappointment that in so flagrant a case of dishonesty an official course of action was not possible. Furthermore, they voiced a strong belief that despite insufficient evidence to maintain a public prosecution, the case was one of fraudulence, and «there being no reasonable doubt of the guilt of the persons implicated in these frauds it is to be regretted that they cannot be prosecuted»[39]. A similar case was reported in 1855 at the GWR when it was discovered that «Mr Kent the company's agent at the Wheatsheaf Station has been proved by an inspection of his accounts to have embezzled the monies of the company to a considerable extent». Instructions were given «to proceed criminally against Kent for the embezzlement and he was dismissed from the service of the company»[40]. However, it was subsequently reported to the directors, that «after careful examination by the solicitor of the circumstances of his dealings it is doubtful whether the company can legally obtain a conviction against him for embezzlement»: no prosecution was therefore instigated[41].

17 The central importance of proof in determining the nature of punishment is further illustrated by the likelihood of prosecution in cases where embezzlement was clear and unquestionable. For example, in the case of Mr Robson, a NER booking clerk at Durham who had been detected keeping back excess fares, «full proof of his having done so existed», and it was therefore ordered «that he be prosecuted»[42]. Similarly, in 1878 when William Goddard Owen, a GWR rent collector at Oxford, was discovered to have embezzled a number of rents owed to the company, clear proof of the clerk's guilt meant that he was immediately «given into custody» to be taken before the Oxford Magistrates[43]. In other cases, a confession of guilt also provided the necessary proof of fraudulence to mount a prosecution, and in such instances committals to court were highly likely. Thus, in 1896 when David Owen gave himself into custody «and confessed to having embezzled about £30 of the Company's money», he was immediately sent for trial at the assizes where he pleaded guilty and was sentenced to six months' imprisonment with hard labour[44]. Indeed, where sufficient proof of guilt could be obtained, companies often went

to considerable lengths to detain and prosecute offenders. For example, in cases where men absconded with company money (usually signifying the necessary element of fraudulent intent for prosecution) directors resourced their detection and capture so that a prosecution could be made, pursuing confidential staff across the country and even abroad[45].

18 In sum, in most cases of financial «irregularity» and delinquency the complex legal nature of «embezzlement» made it impossible to establish sufficient proof for a successful prosecution to occur and made private justice a necessity. Thus, one of the chief determining factors in deciding the public or private nature of proceedings was the nature of statutory provision and subsequently the availability, or otherwise, of proof. The issue of legal proof preceded and outweighed other issues in informing public/private trends in justice against the (suspected) embezzler. Faced with a difficult legal arena companies had little choice but to pursue cases privately.

Exploring the use of private justice

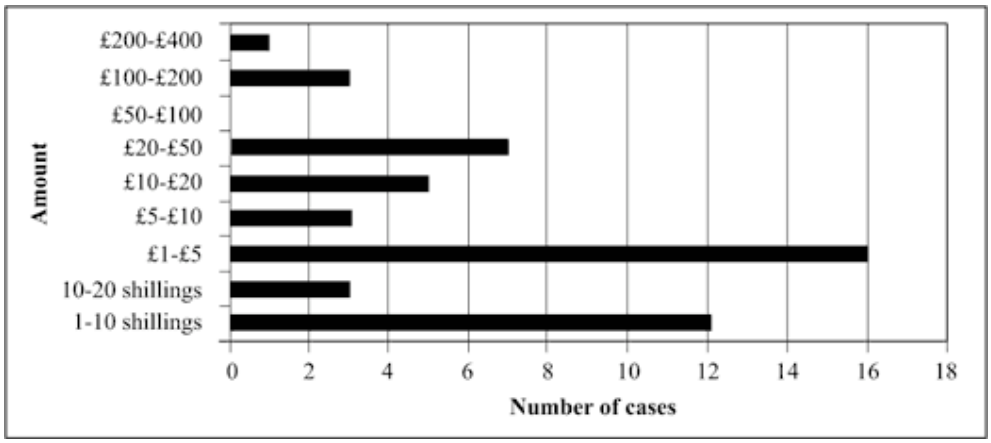
19 The internal disciplinary responses of railway employers to those accused of breaching confidential trust adds further weight to the above claims while questioning the utility of established aetiological explanations for the predominance of private justice. As strongly evidenced in the records of the railway industry, private responses were typically stringent rather than lenient, with official reactions towards suspected employees extending to the maximum censure possible without notable concern for pragmatic issues such as cost, time or public reputation, nor for the welfare of fraudulent staff. Thus, where insufficient evidence made prosecution impossible, the strict internal disciplinary structures of punishment employed by the railway industry demonstrated the determination of directors to pursue clerks as far as possible within the limits of their powers. Indeed, their preference for a system of private justice which operated at the pinnacle of the punitive spectrum and emphasised severity rather than leniency, together with a frequently expressed desire for greater access to the public arena in such cases, suggests that the predominantly private responses towards the embezzler were largely conditioned by necessity rather than choice, and that with the opportunity employers may have pursued a far more public system of punishment.

The scale of embezzlement and costs of public prosecution

20 While the issue of proof has been under-utilised as a key factor in determining prosecutorial trends, alternative knowledge claims, such as the scale of offending and costs attached to public indictment, have often assumed a predominant place in this discussion. As noted by numerous scholars, the financial seriousness of the embezzlement has been seen to play a role in the decision of whether to pursue a prosecution[46]. At some level it is undeniable that the financial size of an embezzlement had considerable bearing upon the willingness of railway companies to prosecute employees. This was particularly noticeable in cases involving very large amounts of money, as the most notorious cases of the age demonstrate. For instance, the huge peculations of men like Leopold Redpath (estimated to be £240,000) inevitably required the fullest and most public form of

punishment available to employers[47]. However, with the exception of such anomalous cases, the private records of the railway industry suggest that the factors underlying the likelihood of prosecution were not simply determined by the amounts involved. As demonstrated by *figure 1*[48], the records of the GWR company illustrate the considerable financial variety of embezzlements prosecuted, ranging from those of only a few shillings to more substantial figures involving some hundreds of pounds. In fact, a significant number of prosecutions involved relatively small amounts of pecuniary loss, demonstrating the willingness of such companies to prosecute even very financially trivial cases of embezzlement.

Figure 1: Financial scale of embezzlements prosecuted by GWR, 1925-26 & 1928-30



21 The readiness of companies to prosecute those embezzling very trifling or relatively small amounts suggests that the financial scale of the act was not necessarily a key determinant in informing the prosecutorial decision. Neither was restitution an underlying signifier in such cases. Since companies such as the GWR were able to recoup losses through the provision of sizeable financial sureties required of all those who held positions of trust[49], considerations of pecuniary loss do not adequately explain patterns of prosecution. Rather, evidence suggests that the amounts embezzled, costs incurred, or the outlet of restitution through sureties, were frequently less important considerations than the desire to pursue and to punish those who had breached trust through the perpetration of embezzlement. Thus, whether an employee embezzled a few pence or several hundred pounds, in committing the act of embezzlement a confidential servant had broken the bond of trust placed in them by an employer and was therefore perceived to deserve the maximum censure available without mitigation on financial grounds.

22 In the offence of breaching trust all were equally culpable regardless of the amount stolen, and, therefore, where a public prosecution was possible directors demonstrated a commitment to proceed in all cases in spite of the amounts involved. The example of Mr Reilly, a GWR clerk prosecuted in 1890 for the embezzlement of 2s.6d, is illustrative. Despite the small amount involved in the case, or the ability of the company to recoup its financial loss through the clerk's sureties, the man's offence was dimly viewed both by his employers and subsequently by the courts. Indeed, in addressing the offender, the magistrate described the man's offence as «a most serious one» because «the accused was a trusted servant and he had betrayed that trust», and in these circumstances he felt able to do no less than inflict a sentence of three months' hard labour on the clerk[50]. Similarly disregarding of the amounts involved in acts of embezzlement in adjudging seriousness,

directors were universally stringent in their approach to the institution of proceedings against all such acts. As correspondence between those responsible for determining company responses to offending staff reveals, the costs of prosecution were never discussed as an immediate or pressing issue, and appeared to be of little consequence to employers. Indeed, companies even offered considerable financial rewards for information leading to successful convictions. For example, at the mid-century the directors of the GWR offered the sum of £10 to employees who gave «voluntary» and «prompt» evidence of any variety of «fraud» committed upon the company by one of its staff[51]. Moreover, once a prosecution was instigated companies readily arranged to pay wages and expense claims to servants who gave evidence on their behalf to ensure that they were not financially disadvantaged by their absence from work or participation in a trial[52].

Paternalistic impulses, sympathy and leniency

23 Similarly, explanations for the predominance of private justice which emphasise the paternalistic impulses of employers appear to be of limited utility in their failure fully to understand the attitudes of the railway industry, as well as the Victorian public and judiciary, to the embezzler. Images of employers as protectors of embezzling staff are in stark contrast to the outlook of railway companies, and to many criminal justice practitioners, contemporary writers, members of the public, and victims of the offence. As Victorian and Edwardian media reporting of the embezzler demonstrates, attitudes towards this offender were extremely ambiguous[53]. Thus, while some offenders might receive public and/or judicial sympathy, the opposite was also true. Embezzlers were regularly viewed as those whose respectable façade ultimately failed to hide their true nature and base moral instincts, and who consequently deserved punishment. Furthermore, rather than guaranteeing a more sympathetic or lenient attitude, the «respectable» persona and trusted position of the typical embezzler placed upon this individual extra moral obligations of honesty and integrity. In this respect their offending behaviour was more problematic than that of the traditional criminal and more deserving of censure. In these circumstances a violation of trust was at least as likely to invoke feelings of resentment, disapproval, and condemnation from employers as sympathy, understanding, and leniency. Men who embezzled company money were often construed as «doubly deviant» since they had broken both the criminal law and also the trust relationship between employer and employee[54].

24 In support of the more denunciatory perceptions of the embezzler, the attitudes of railway companies towards such staff erred very definitely towards severity rather than leniency, and incredulity rather than sympathy. In contrast to the findings of scholars such as Hall, throughout the nineteenth and early twentieth centuries, the litigious outlook of companies such as the GWR was a clear reflection of the severe threat posed by the embezzler and the seriousness with which their offences were viewed. Emphasising the gravity of the act over other considerations, railway directors reacted severely to embezzlers and other financially dishonest staff. As noted above, where proof existed to impose the maximum sanction of public punishment upon an employee directors actively sought such measures. Indeed, where evidence enabled a prosecution to be instituted companies rarely showed any inclination to withdraw proceedings or find mitigating circumstances, even when implored to do so by offenders, their families, or influential

acquaintances. For example, when the Reverend Welsford of Tewksbury wrote to the directors of the GWR asking them to withdraw their action against his son (formerly a goods clerk at Birmingham) who had been committed to trial for «defalcation», and «praying the directors intercede with the court for mitigation of his punishment», the response was simply that, «the directors regret that they cannot discover any grounds upon which to [withdraw the prosecution or] recommend his son to the favourable consideration of the court»[55].

25 Even when prosecution was not utilised employer paternalism was severely lacking. Directors showed little concern for the prospects of dishonest clerks, and went to some lengths to reduce the future employment opportunities of untrustworthy staff. Indeed, companies extended a duty of care to other potential employers by refusing to give employment references to such men[56]. In efforts to counteract the problem of the transference of dismissed staff between railway employers and reduce vulnerability to embezzlement, during the 1850s a number of companies joined together in forming inter-company blacklists of dismissed and/or prosecuted employees to ensure that such men would not obtain another position elsewhere within the industry[57]. Finally, in contrast to previous scholarly claims about the continuing paternalistic sentiments of employers towards those with long service histories, previous records of good service, or good mitigatory stories, such sentiments were of little value in altering the minds of railway employers in cases of trust breach. As the private correspondence of the industry demonstrates, directors were not moved from their universally severe course of action regardless of the individual circumstances of cases, employment records, or service histories of staff involved. Officials demonstrated little visible sympathy towards the many dismissed clerks whose aetiological explanations of financial penury, low pay, and considerable financial strain seemed to offer some incentive to leniency. Instead strict disciplinary policies were stringently employed against all those who were strongly suspected or proven to be dishonest, and directors generally remained unaffected by the individual circumstances, explanations, or mitigating motives surrounding the offences of men who perpetrated acts of fraudulence against them. This is clearly demonstrable through private company records.

26 Within the railway industry, large numbers of trusted servants were brought to book for various pecuniary losses and financial «irregularities»[58]. For those who could not convince officials that their situation had been the result of some honest mistake, but where insufficient proof of dishonesty made an official course of action impossible, dismissal was the primary course of action taken[59]. Thus, for example, the stated policy of the London and North Western Railway was, that «in cases of dishonesty servants should be dismissed at once»[60]. A similar strategy was utilised by the GWR, whose directors practised a strict and unbending rule of dismissal towards all those men who were «irregular» in their accounts without satisfactory explanation[61]. In pursuing such responses directors failed to demonstrate leniency, understanding or paternalism.

27 Despite being a secondary punishment option (to public prosecution) dismissal without prosecution was not necessarily a more lenient form of treatment. In fact, for directors who required a harsh response to those believed to have embezzled company funds, dismissal was an extremely useful penalty, incorporating many of the same punitive outcomes of prosecution. For example, those who had been dismissed often found it impossible to gain further employment in positions of trust, owing to doubts over their character. In a working environment where trust, character and «respectability» were

crucially important, one black mark against an employee's reputation could have disastrous consequences for their standing in the community and for future work prospects[62]. The stigmatising effects of a dismissal were readily observable amongst the private correspondence of railway clerks who frequently wrote to company directors claiming mitigation of their offences, telling of the consequences of their dismissal, and begging to be reinstated when further work was not forthcoming. Such correspondence spoke repeatedly of the very serious consequences attaching to dismissal for «irregularity». For instance, after being dismissed for embezzlement Frederick Dadd wrote to his previous employers in December 1914 claiming that he had been «left stranded upon the labour market»:

> At my age and with only clerical experience behind me, work is very difficult to secure, and I know not which way to turn. I have had no payment from the company since August 8, and should have been altogether without means but for a few days temporary employment I was able to obtain, and if friends had not come to my assistance for the time being[63].

28 The clerk's pecuniary difficulties and inability to secure further clerical work are echoed in many similar cases. Thus, in 1907 when Mr Brown, a GWR clerk of thirty years service, was discharged for having committed «a serious defalcation» of more than £120, he described the consequences of his dismissal in the following terms: «I have blighted my whole career by one great wrong act, which fills me with shame, and will be my life long sorrow»[64]. Yet despite such remorse and pleas for leniency, the paternalism and sympathy of employers towards dismissed clerks was not readily observable amongst railway officials. Clerks often wrote to directors begging either to be retained in the company's service, or some months later, to be reinstated, telling of their desire to redeem themselves. For example, one «irregular» clerk wrote:

> I tender my deepest and fullest apology for this dishonourable act – the first committed as a servant of the company during the whole of my 30 years service ... If my case receives the kind consideration of the board, and I am given another opportunity somewhere to serve the company's interests, I promise never again to give the slightest cause for complaint, but will seek by every means in my power, to regain in some measure the confidence I have now so deplorably lost ... I wait with intense anxiety for some relief from this awful suspense and pray that one more chance may be given me[65].

29 Nevertheless, those clerks whose «irregularities» were thought to be acts of dishonesty were never retained or reinstated in any position regardless of their previous record, mitigatory pleas, or personal circumstances[66].

30 Such policies bore heavily upon the lives of those released under these terms. Clerks who were dismissed as «irregular» and on suspicion of embezzlement or fraudulence felt a very public sense of shame within their communities, and a number of disgraced men avoided the social consequences of discharge through suicide. Thus, when Mr Bond, a cashier at Swansea, was discovered to be «a defaulter to a very large amount», his immediate suicide was evidence of the disgrace and stigma attached to his situation[67]. Another clerk, Mr Gwyn, implicated in Bond's embezzlement and suspended pending a thorough inquiry into the case, wrote to the directors calling for his speedy reinstatement and claiming that the situation «reflects seriously on my conduct and character ... lowers me in the eyes of my fellow servants and neighbours and is really most trying»[68].

31 Furthermore, dismissal caused considerable economic strain. Stranded upon the labour market, clerks often spoke of the debt which they quickly accumulated, and the poverty they and their families were forced into. Thus, GWR clerk, Charles White, claimed to have lost his home because of debt «owing to the absence of employment», and stated that his family were consequently «reduced to a state of penury». According to White, therefore, through their action against him the GWR directors had not only punished him but his family also, since his failure to gain further employment (and the directors' role in this failure) had taken «the bread from my mouth, and also from the mouths of my wife and family who are dependent upon me»[69]. Further illustrative is the case of Mr Howell. In 1881 Howell, a rent collector in the Swindon District of the GWR, was discovered to have received £174.0s.4d on behalf of the company which he had not accounted for. He subsequently wrote to the directors pleading to be retained in the company's service for the sake of his family, stating:

> Do not let my [nine] poor helpless babes be turned into the streets to starve for there is no other fate for them unless the directors have mercy for them. I am almost driven to madness when I think of this but I still have a little hope that mercy will be shewn [*sic*] to me[70].

32 The clerk's pleas were ignored. Following his petition Howell and his family were ordered to leave the company house in which they lodged, and the clerk was dismissed from the employment of the directors without any hope of reinstatement[71].

33 Not only were the families of embezzling clerks forced into poverty by the absence of a sufficient income into the household, the punishment inflicted upon dependents could be even more far reaching. The stigma of an embezzlement not only attached to the clerk but also in some degree to their family. In illustration of this, in 1907 a GWR clerk of thirty-years service, suspended for «irregularity» pending an inquiry into the circumstances, wrote to his superior stating:

> I plead with you on behalf of my home, my wife, who you have known for so many years, and my family of seven, that you will entreat the board not to dismiss me from their service, which would ruin me entirely for the future, and blight the rising prospects of the members of my family[72].

34 Yet despite pleas for leniency and frequent remonstrations about the wider ramifications of dismissal for families, relatives, and friends, in dealing with dishonest staff directors were continually unsympathetic to the employee's future or that of their dependants. Indeed, in most cases directors took little notice, demonstrating no continuing obligation or regard for the welfare of those who had betrayed their trust.

35 Railway officials were keenly aware of the punitiveness of private punishments such as dismissal in dealing with the dishonest clerk, a fact demonstrated by their discretionary use of alleviating factors in cases where considerable uncertainty of dishonesty existed. For instance, in such cases the GWR board occasionally withdrew a dismissal on condition that a clerk tendered their resignation. This decision remained at the discretion of directors and was only used where significant doubts about the nature of an «irregularity» and the guilt of an employee persisted. Either way, the clerk was removed from employment, although the effect of the two actions was considerably different. In the eyes of future employers a resignation implied a voluntary act and did not carry the stigmatising marks of a dismissal. In consequence, it was viewed differently by railway employers (in providing testimonials) and also by future employers. Thus, unlike dismissal, a resignation created fewer barriers to further clerical employment.

36 The distinction between these two modes of punishment can be seen in the «defalcation» of John Brittain before the GWR directors in 1886. Brittain, district cashier at Worcester, was found to have embezzled about £70 of company money which he covered up by making false entries in his accounts. «One of the worst features of the case», according to the directors, was that Brittain may have «induced» the lad clerk in the office, Frederick Wynne, to become party to concealment of the embezzlement «by making entries which he knew to be false in the daily return». While Brittain's fraudulence was in no doubt, the fact of Mr Wynne's collusion in the peculation was less certain. Wynne had certainly made false entries in the company's records, however, the question of whether he had done so without knowledge of the fraud or alternatively in collusion with Brittain remained unclear. In a report to the directors of the GWR the investigating officer in the case set out the dilemma in the following terms:

> If Mr Wynne knew why these incorrect entries were made he is a party to the fraudulent use of the company's funds; and if such false entries did not arouse a suspicion of Mr Brittain's integrity, his intelligence is, I think, too limited to make his continuance in the company's service desirable[73].

37 Both men were examined by the board of directors and it was decided that while Brittain was clearly to be immediately dismissed from the service for his fraudulence, Wynne, whose dishonesty remained uncertain, «was allowed to resign his appointment»[74]. In another case Mr Hampton, a clerk at Slough was called before the directors of the GWR on a charge of short changing a passenger, Lady Corbett. While «the fact of fraudulent intention in doing so was not however clearly established against him», his general conduct in the matter was nevertheless considered unsatisfactory. In consequence, Hampton was allowed to resign from his position[75]. While uncertainty of fraudulence encouraged the use of forced resignation, alternatively, in cases where greater suspicion of dishonesty existed, resignations were disallowed and employees were dismissed. In 1895, for example, when Francis Hammet, a GWR superintendent was suspected of having «appropriated to his own use» almost £90 of company money, the man tendered his resignation. However, the board of directors decided that his suspected guilt in the matter meant his resignation could not be accepted but that «he must be dismissed from the company's service»[76].

Conclusion

38 While confirming the predominantly private nature of responses to the treatment of dishonesty by trusted employees, this article has questioned the validity of existing claims about the factors underlying this trend, and offered an alternative picture of the skewed public/private dimensions of justice against the «respectable» embezzler. Through a case study of the Victorian and Edwardian railway industry it has highlighted key factors which played a central determining role in the nature of justice, yet which have been overlooked by scholars. It has been demonstrated that previous academic insights into the skewed nature of prosecutorial trends in the case of embezzlers (and like offenders) are, in the case of one key industry at least, less significant than hitherto assumed. Indeed, it has been shown that the work of Hall (echoed throughout other research) has made a number of over-simplistic generalisations which are unsupportable in the context of the huge corporate railway enterprises of the nineteenth and early twentieth centuries. Thus, the assumption that favourable treatment, underpinned by

ideological stereotypes of the social and spatial dynamics of criminality, can account for the overwhelmingly private nature of justice, is flawed on two fronts: first, it wrongly supposes that the private arena of justice was a more lenient one than its public counterpart; second, it incorrectly presumes that embezzlement, fraudulence and breaches of trust by stereotypically «untypical» offenders was viewed relatively sympathetically. This was neither true of attitudes within the Victorian and Edwardian railway industry or contemporary society more broadly. Furthermore, as the records of this industry demonstrate, the importance of alternative concerns (particularly issues of financial cost and time) often attributed a central place in informing company justice, were also of far less importance within the disciplinary apparatus of the railway company. Such longstanding assumptions have been so widely accepted because of mistaken beliefs concerning the underlying influences upon employers, and a failure to view the subject in its broadest socio-historical terms.

39 This article has conversely demonstrated the central importance of the public, legal arena and its crucial influence upon patterns of punishment. In contrast to existing research it has been shown that in the case of the railway industry a major influencing factor upon the overwhelmingly private nature of punishment was the issue of attaining sufficient legal proof to proceed into the public arena of the courts. The complexities of eighteenth, nineteenth, and early twentieth-century theft laws, and particularly the difficulties of proving embezzlement greatly limited the ability of employers to proceed to the public arena or even to label suspicious acts of pecuniary loss beyond the vague terminology of «irregularity». The repercussions of this legal uncertainty were felt throughout the Victorian railway industry and greatly impacted upon the scale of public prosecution against the offence. Thus, rather than being motivated by paternalistic or lenient sentiments, the widespread and persistent usage of private punishment against embezzlers can alternatively be interpreted as a consequence of necessity on the part of employers without recourse to the criminal law. Certainly this explanation better elucidates the notable punitiveness of private punishments against those suspected of fraudulent behaviour.

40 Whether the findings of this study are applicable beyond its own parameters remains a question for further empirical research. However, a number of factors would appear to suggest that the issue of legal proof has a far wider historical and spatial applicability in determining the public/private dynamics of white-collar justice. In particular, the general application of embezzlement statutes to all varieties of Victorian and Edwardian industry implies a much broader experience of the difficulties of obtaining satisfactory evidence to proceed into the public arena. In addition, the similar legal difficulties noted by some modern criminologists[77] at least implies the persistence of such problems beyond the historical framework of this study.

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NOTES

2. For example, Jennifer Davis has concluded that nineteenth-century employers never considered the law as the primary mechanism of justice in dealing with criminal acts perpetrated in the workplace. As such, «prosecuted law breaking represented only a tiny proportion of similar behaviour, which for various reasons, never reached the courts» Davis (1989, p. 400). Similarly, in his discussion of the birth and proliferation of modern «white-collar crime» during the Victorian and Edwardian period, George Robb has emphasised the «hidden nature» of such offending behaviour and the inadequacies of the official picture of fraud and embezzlement Robb (1992, p. 8). See also Taylor (1998, pp. 44-45); Kindleberger (1981, p. 78). Likewise, in specific reference to the pursuance of embezzlement within the modern business environment, socio-legal scholar Jerome Hall has argued, that «very few known embezzlers are prosecuted», since employers are extremely reluctant to do so, preferring instead to deal privately with such matters. Indeed, for Hall, a key feature of embezzlement remains its overwhelmingly hidden nature Hall (1952, p. 305). From within the field of criminology see, Sutherland (1961); Croall (1992); Croall (1999); Nelken (2002); Davis, Croall, Tyrer (1998, pp. 57-59, p. 71); Levi (1989, p. 107).

3. Hall (1952, p. 305).

4. Partly (if not largely) this failure to fully engage with this subject area is a consequence of the general historical neglect of business and white-collar crime. Despite a small amount of recent exploration into the subjects of «respectable», «business» and «white-collar crime», research of this area remains sparse. Criminologists, to their cost, have shown little interest in varieties of workplace and «white-collar crime» before 1940, while historians have barely scratched the surface of this key area. Indeed, notwithstanding its centrality to the emergence and proliferation of business crime during the Victorian era, embezzlement has received little more than passing comment.

5. This article utilises the records of a number of the larger companies, most prominently the Great Western Railway Company, and to a lesser extent the North Eastern and London & North Western Railways, both for practical and ideological reasons. The records of such companies are more extensive and survive in larger numbers than those of other smaller companies. Indeed, the records of the GWR represent the most significant and complete source of railway records available. Furthermore, the often held association between company expansion (through the joint-stock company) and the widespread development of «white-collar crime», suggests that the larger railway companies were those most likely to keenly and widely feel the effects of this problem. See Perkin (1971); Robb (1992); Locker (2004). For general Victorian contemporary debate on this issue see also Dickens (1860); Heron (1861); Laing (1866); Letsom Elliot (1868); Stutfield (1898); Van Oss (1898).

6. This is, of course, a complex area to negotiate; see, Croall (1991, p. 281); Davis (1989, p. 400).

7. Hall (1952, ch.7). Hall's work remains the most detailed theoretical insight into the predominance of private justice against the embezzler and such factors have continued to be viewed as key signifiers in explaining the reactions of private industry to the «respectable» offender. Thus, scholarly understandings of the complex underpinnings of prosecutorial trends remain closely aligned with Hall's work. For instance, see Anderson (1976, pp. 34-41); Green (1993, p. 101); Henry (1978, ch.7).

8. See also, Robb (1992, p. 133).

9. Hall (1952, p. 311, p. 318).

10. Such powers were considerably bolstered throughout the nineteenth century through the extension and consolidation of the legal offence. See, Godfrey, Locker (2001); Locker (2004, ch.3).

11. This was particularly the case after 1868 when embezzlement was incorporated within the range of summarily triable crimes, encouraging greater levels of prosecution. See Locker (2004, ch.3); Wiener (1994, p. 11; pp. 259-60).

12. The number of persons involved in the daily running of the United Kingdom railway network increased considerably across the second half of the nineteenth century from 47,000 in 1847, to 127,000 in 1860, and 274,000 by 1873 Hudson (1970, p. 12); also Kingsford (1970, p. xii).

13. For instance, Ireland (1997) notes that embezzlement entered Carmarthenshire's felons register most commonly in connection with the railway industry.

14. Great Western Railway, Director's Minutes (GWR, DM) extract, 28th March 1924, min. no.6; GWR, DM circular no.2920, General Manager's Office, Paddington Station, 30th June 1924, *London Public Records Office* (hereafter *PRO*) *Rail 258/261*.

15. The staff records of the railway industry are peppered with examples of prosecution against financially «irregular», dishonest and embezzling staff. Typical examples include, Mr Pybus, North Eastern Railway (NER) stationmaster, prosecuted for embezzling £30, North Eastern Railway, Traffic Committee Minutes, (NER, TCM), 16th September 1853, min. no.407, *PRO Rail 527/61*; Mr Robinson & Mr Lane, NER clerks, similarly prosecuted, NER, TCM 13th April 1854, min. no.1007, *PRO Rail 527/61* & NER, TCM, 15th September 1854, min. no.1441, *PRO Rail 527/61*; George Siddle, goods clerk, convicted of the embezzlement of £59 NER, TCM, 30th December 1874, min. no.10440, *PRO Rail 527/67*; Charles Heath, chief booking clerk, prosecuted for embezzling over £60,

Great Western Railway, Travelling Auditor's Reports (GWR, TAR), 4th February 1882, AC74/2; 17th February 1882, AC74/90, *PRO Rail 258/261*; Walter Evans, prosecuted in 1929 for «cash irregularities», GWR Staff Register, 2 volumes, 1900-1958, *Chester Records Office, NPR 2/22*. See also the annual reports of the Chief Constable of the GWR, which record that during the years 1925-6 & 1928-30 the company prosecuted more than fifty members of its staff for embezzlement, GWR, *PRO Rail 258/347*.

16. It is not possible to accurately quantify the extent to which private justice was utilised against the embezzler, not least owing to the alternative (non-legal) discourses which persisted within the private arena and which made specific offence types impossible to disentangle. Nevertheless, the records of the railway industry demonstrate, very clearly, significant numbers of offences of a financial nature, involving sums of missing money and involving trusted servants that remained within the private arena. For examples, see GWR, DM, at *PRO Rail 250*. Alternatively see the similar NER, TCM, at *PRO Rail 527*. For further anecdotal evidence see also, Chapman (1925, p. 56).

17. Hall (1952, pp. 304-319).

18. *Railway Policeman Journal*, 1, 2, January 1949, p. 7.

19. Shapiro (1990, pp. 353-355).

20. GWR, DM, 22nd August 1850, p. 124, *PRO Rail 250/4*.

21. GWR, DM, 11th September 1851, p. 154, *PRO Rail 250/5*.

22. NER, TCM, 10th June 1853, min nos.90 and 91, *PRO Rail 527/61*.

23. NER, TCM, vol.1, 1853-1855, min nos. 229 and 402, *PRO Rail 527/61*.

24. *The Times*, 29th March 1865, p. 11.

25. GWR, DM, 10th December 1857, p. 142, *PRO Rail 250/12*. For similar examples, see the case of Mr Tarplet, GWR, DM, 18th September 1856, pp. 143-4, *PRO Rail 250/10*; Mr Card, GWR, DM, 15th October 1857, p. 46, *PRO Rail 250/12*; Mr Hoffman, GWR, DM, 3rd July 1851, p. 80, *PRO Rail 250/5*; Mr Neal, GWR, DM, 19th June 1851, pp. 67-8, *PRO Rail 250/5*; see also Gray (2000, p. 158) for similar evidence relating to the early twentieth century.

26. GWR, DM, 19th August 1852, *PRO Rail 250/6*; for similar see the case of Mr Winterbottom, GWR, DM, 31st July 1851, p. 119, *PRO Rail 250/5*.

27. Railway Clerk's Association (1911, pp. 5-6).

28. Joby (1984, p. 20).

29. GWR, DM, 18th December 1851, p. 288, *PRO Rail 250/5*.

30. Letter from Charles White to the GWR board of directors, 16th September 1892, *PRO Rail 258/261*.

31. Letter from Charles White to the GWR board of directors, 16th September 1892, *PRO Rail 258/261*.

32. GWR letter from Hugh Owen to G. Mills, 5th October 1892, *PRO Rail 258/261*.

33. NER, TCM, 17th July 1857, min. no.3426, *PRO Rail 527/62*.

34. GWR, DM, 31st May 1855 p. 352; 14th June 1855, p. 359, *PRO Rail 250/8*; see also GWR, DM, 6th December 1855, p. 103; 13th December 1855, p. 111, *PRO Rail 250/9*.

35. GWR, DM, 28th August 1856, p. 107, *PRO Rail 250/10*.

36. NER, TCM, 23rd May 1856, min. no.2839, *PRO Rail 527/62*. Emphasis added.

37. NER, TCM, min no.407, 16th September 1853, *PRO Rail 527/61*.

38. GWR Secretary's Special Report: Defalcations at Bath and Bristol by Booking Clerks, 16th March 1871, *PRO Rail 267/126*.

39. GWR Secretary's Special Report, Defalcations at Bath and Bristol by Booking Clerks, 16th March 1871, *PRO Rail 267/126*.

40. GWR, DM, 26th July 1855, pp. 404-5, *PRO Rail 250/8*.

41. GWR, DM, 2nd August 1855, p. 412, *PRO Rail 250/8*.

42. NER, TCM, min no.1007, 13th April 1854, *PRO Rail 527/61*.

43. GWR Letter from A.L. Jenkins to F.G. Saunders, referring to the embezzlement of William Goddard Owen, 2nd April 1878, *PRO Rail 258/261*.

44. GWR Letter from W.D. Williams to G.K. Mills, Birmingham, regarding the embezzlement of David Owen, 16th March 1896, *PRO Rail 258/261*. Following Owen's trial it was discovered that his «defalcations» were really in excess of £100.

45. See the case of Mr Prowse, who absconded with £177.15s.11d and was traced to New York, GWR Letter for H. Lambert, 23rd April 1881, *PRO Rail 258/261*; alternatively Isaac Taylor, NER, TCM, 14th October & 11th November 1853, min. no.506, 594; Mr Lane, NER, TCM, min no.1441, 15th September 1854, *PRO Rail527/61*. See also the infamous case of Leopold Redpath. Whitbread (1961, p. 231).

46. Robb (1992, p. 8); Sindall (1983); Martin (1962, pp. 87-89); Davis (1989, p. 408); Hall (1952).

47. For a detailed account of Redpath's case see Grinling (1898, ch.11); Morier Evans (1859, ch.9); Horler (1931); Robbins (1967, pp. 139-143). See also Great Northern Railway, Reports of the Committee of Investigation into the Redpath Frauds, 1846-1859, *PRO Rail 236/424*.

48. GWR Annual Reports of the Chief Constable, 1925-26, 1928-30, *PRO Rail 258/347*.

49. While the minutiae of the financial guarantee varied between companies, sureties were mandatory amongst those whose position involved handling company money. For instance, in confirming its policy of financial guarantees in 1893, the directors of the GWR stated that «salaried officers and clerks holding specially responsible positions» were to provide sureties of between £500-£3,000; officers in receipt of a salary of £500 or upwards were to give guarantees up to the sum of £1,000; those earning between £300-£500 per annum were to be guaranteed for £500; and all officers earning less than £300 were required to provide the same amount in guarantee; GWR General regulations, rule no.48, 8th June 1893, p. 104, *PRO Rail 250/8*. See also Kingsford (1970, pp. 33-34).

50. GWR, Letter from James Saunders, Special Police Department, Paddington to J.D. Higgins, Secretary, 15th October 1890 regarding «Regina v Reilly», *PRO Rail 258/261*.

51. GWR «Prevention of Fraud» circular, 15th February 1848, *PRO Rail 1014/3*

52. For example, NER, TCM, 11th November 1853, min. no.609, «Expenses allowed to company servants when employed as witnesses»; NER General Orders and Instructions from various Head Offices 1884-1903, general order no.10, 1884, which stated that servants attending court as witnesses in cases of interest to the company would be entitled to «reasonable» out-of-pocket expenses, *PRO Rail 527/966*; see also Midland Railway, DM, 1st August 1866, min. no.7086, *PRO Rail 491/20*.

53. Locker (2004, ch.4).

54. The concept of «double deviancy» is most familiar within criminological discourses relating to the subject of female criminality. See for instance, Heidensohn (2002, pp. 504-506); also Ballinger (2000, p. 203). However, the concept is a useful tool through which to interpret employer attitudes towards the issue of trust breach and embezzlement.

55. GWR, DM, 29th June 1854, p. 406, *PRO Rail 250/7*.

56. See for example, Letter from Charles White to the GWR board of directors, 16th September 1892, *PRO Rail 258/261*.

57. NER, TCM, 7th July 1854, min. no.1252, *PRO Rail 527/61*.

58. The committee minutes of various companies are peppered with examples. See for instance, the board minutes of the GWR directors at *PRO Rail 250*; alternatively, for specific reference to clerical staff, GWR, Registers of Clerks, at *PRO Rail 264* provide many examples. The minutes of other companies are equally fruitful, for instance, the TCM of the NER found at *PRO Rail 527*.

59. Evidence suggests that dismissal was used frequently. For example, Kingsford notes that during 1858-60 the London, Brighton & South Coast Railway dismissed approximately 5 per cent of its workforce per year. Kingsford (1970, p. 21). Alternatively the records of the GWR illustrate that between 1912-1930 while the company prosecuted 1961 servants (for all offences,

unspecified), it dismissed a further 1198 servants without prosecution. See Annual Reports of the GWR Chief Constable, 1923-30, *PRO Rail 258/347*. The frequency with which confidential servants were called before superiors to explain financial «irregularities», and the high levels of dismissal in such cases, suggests a considerable amount of suspicion of fraudulence and embezzlement, since where directors believed an «irregularity» to be genuine and honest, their main response was to retain the clerk.

60. LNWR Meeting of the Special Committee, min. no.17.307, *PRO Rail 410/62*.

61. See for example, the case of Mr Bond, GWR, DM, 19th April 1855, p. 303, *PRO Rail 250/8*.

62. Anderson (1976, p. 36).

63. Letter from Frederick Dadd to Viscount Churchill (GWR director), 3rd December 1914, *PRO Rail 258/261*.

64. GWR Letter from H. Brown to W.H. Stainer, Swindon, 30th September 1907, *PRO Rail 258/261*.

65. GWR Letter from H. Brown to W.H Stainer, Swindon, 30th September 1907, *PRO Rail 258/261*.

66. For evidence of high staff turnovers see for example, GWR, Registers of Clerks, *PRO Rail 264*; also Kingsford, *Victorian*, p. 21.

67. GWR Letter from S. Boxall (Chief Assistant to Hugh Owen), Cashier's Office, Swansea Station, to F.G. Saunders (Director), 9th December 1879; see also GWR Report of Hugh Owen to the board of directors with regard to the defalcations of the later Mr Bond, late cashier, Swansea, 10th December 1879, *PRO Rail 258/261*.

68. GWR Letter from Mr Gwyn to Mr Owen, 31st December 1879; also GWR Letter from Mr Gwyn to the board of directors, 1st January 1880, *PRO Rail 258/261*. See also, Letter from Charles White to the GWR board of directors, 16th September 1892, *PRO Rail 258/261*.

69. Letter from Charles White to the GWR board of directors, 16th September 1892, *PRO Rail 258/261*. See also the case of Frederick Dadd, Letter from Frederick Dadd to Viscount Churchill (director of the GWR), 3rd December 1914, *PRO Rail 258/261*. For further discussion of the wider impact of dismissal upon families see also the case of Herbert Jones, GWR letter from Mr Jones to Mr Roberts respecting the defalcation of his son, Herbert, Newport, 28th June 1878, *PRO Rail 258/261*; for similar see also GWR, DM, 29th June 1854, p. 406, *PRO Rail 250/7*.

70. GWR Letter from Mr Howell to Mr Jenkins, 9th November 1881, *PRO Rail 258/261*.

71. GWR Letter from Mr Howell to Mr Jenkins, 28th November 1881, *PRO Rail 258/261*; GWR Letter from Mr Howell to Mr W. Dean, Swindon, 13th December 1881, PRO Rail 258/261.

72. GWR letter from H. Brown to W.H Stainer, Swindon, 30th September 1907, *PRO Rail 258/261*.

73. GWR letter from H. Owen to F.G. Saunders, 27th March 1886, *PRO Rail 258/261*.

74. Extract from the minutes of GWR, DM, Paddington Station, 31st March 1886, min. no.2, *PRO Rail 258/261*.

75. GWR, DM, 7th August 1856, p. 72, *PRO Rail 250/10*.

76. GWR, DM, 7th March 1895, min. no.10, p. 151, *PRO Rail 250/42*.

77. Cressey (1971, p. 19).

ABSTRACTS

The Victorian period witnessed a widespread proliferation in new varieties of employee crime, associated chiefly with the «respectable» echelons of the nineteenth-century workforce. Alongside the rapid growth of business the emergence of offences such as embezzlement reached

unprecedented levels. Within the private arena of the company confidential staff perpetrated considerable amounts of such crime, a claim widely accepted by academic scholars. Yet this criminal world remains largely obscured by its predominantly private character. In consequence, historians and criminologists have generally neglected the key centre for «respectable», «white-collar» delinquency, and therefore current knowledge about the spatial dynamics of justice remains limited. Moreover, when discussed the theoretical interpretations of scholars concerning the skewed picture of public/private responses to this offender type have hitherto typically resonated around a set of longstanding aetiological axioms. In examining the records of one of the most significant industries of the Victorian era, the railways, and the key offence of embezzlement, this article explores the responses of industry to the «respectable» offender, and offers a critique of earlier theorising about the motivations underlying a system governed predominantly by private justice.

L'époque victorienne a vu proliférer des variétés nouvelles de criminalité en col blanc associée aux échelons « respectables » de la main-d'œuvre du XIX^{e} siècle. À mesure que se développaient les affaires, des infractions telles que l'escroquerie atteignaient des niveaux sans précédent. À l'abri des murs des entreprises, des personnels de confiance commettaient un nombre considérable de ces infractions, réalité tout à fait reconnue par les universitaires. Pourtant, ce milieu criminel reste largement opaque en raison de son caractère essentiellement privé, de sorte que les historiens et les criminologues ont généralement négligé les lieux cruciaux de la délinquance « respectable » et « en col blanc » et, par voie de conséquence, la dynamique spatiale de la justice pénale. En outre, les discussions théoriques du caractère biaisé des réponses publiques/privées à ce type de délinquance ont généralement été appuyées sur des axiomes étiologiques anciens. À travers l'examen de l'escroquerie à partir des archives de l'une des principales industries victoriennes, l'industrie ferroviaire, cet article analyse la manière de traiter le délinquant « respectable » et fournit la base à une critique des théories antérieures relatives aux motivations d'un système principalement gouverné par une justice privée.

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